

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**IAN LEONARD CLARK,**

Plaintiff,

v.

**MILWAUKIE POLICE DEPARTMENT;  
and KENNY SIMAC,**

Defendants.

Case No. 3:22-cv-662-SB

**ORDER**

**Michael H. Simon, District Judge.**

United States Magistrate Judge Stacie F. Beckerman issued Findings and Recommendation in this case on September 15, 2022. Judge Beckerman recommended that this Court grant Defendants’ motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted. No party has filed objections.<sup>1</sup>

Under the Federal Magistrates Act (Act), a court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a

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<sup>1</sup> Plaintiff filed a “response” to Judge Beckerman’s Findings and Recommendation, in which Plaintiff states that he agrees with Judge Beckerman. ECF 23. Plaintiff states that “upon reflection” and after reading the Findings and Recommendation, he no longer believes this dispute is an appropriate matter for the court system and agrees with Defendants that amendment would be futile. *Id.*

party objects to a magistrate judge's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3). If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge's findings and recommendations if objection is made, "but not otherwise").

Although review is not required in the absence of objections, the Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court review the magistrate judge's findings and recommendations for "clear error on the face of the record."

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Beckerman's Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge Beckerman's Findings and Recommendation, ECF 21. The Court GRANTS Defendants' motion to dismiss, ECF 12. Because Plaintiff has stated that he agrees that amendment would be futile, the Court will enter a judgment dismissing this case.

**IT IS SO ORDERED.**

DATED this 26th day of September, 2022.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge